

EXHIBIT 4

From: [Andy Childers](#)
To: [Desh, Sharon](#); [Timothy Becker](#); [Jose Rojas](#); [Sara Papantonio](#)
Cc: [James F. Hurst - Kirkland & Ellis LLP \(james.hurst@kirkland.com\)](#); [rebecca.fitzpatrick@kirkland.com](#); [sierra.elizabeth@kirkland.com](#); [Coberly, Linda](#)
Subject: RE: NEC | Mar | Buddington
Date: Tuesday, April 22, 2025 11:25:49 AM



Sharon,

I know we discussed a lot of things during our meeting, so you may have forgotten that I specifically told you that we would not attempt to elicit any expert opinions from Dr. Buddington at trial. My understanding from your email was that you thought you needed to file a motion to ensure that was the case – my representation to you and Tim’s representation to the Court should be sufficient. I told you I would not be responding to your email because 1) we discussed the issue during our meeting, and 2) your request that we essentially share the entirety of our direct examination of a witness with you before the trial has even started is not an appropriate request. I also told you that I was happy to speak with whoever on your team is actually handling this issue, since you told me during our meeting that you are not that person despite the fact that you sent the initial email.

I am still not sure why you feel like a motion is necessary, but if you insist on filing one I assume you will follow the agreed upon protocol in the scheduling stipulation and keep it to three pages or less.

Sincerely,
Andy Childers

C. Andrew Childers
Of Counsel
Levin, Papantonio, Proctor,
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From: Desh, Sharon <SDesh@winston.com>
Sent: Monday, April 21, 2025 9:53 PM
To: Andy Childers <achilders@levinlaw.com>; Timothy Becker <tbecker@johnsonbecker.com>; Jose Rojas <rojas@ctlawyer.net>; Sara Papantonio <spapantonio@levinlaw.com>
Cc: James F. Hurst - Kirkland & Ellis LLP (james.hurst@kirkland.com) <james.hurst@kirkland.com>; rebecca.fitzpatrick@kirkland.com; sierra.elizabeth@kirkland.com; Coberly, Linda <LCoberly@winston.com>
Subject: RE: NEC | Mar | Buddington

Andy,

To confirm, on our meet and confer regarding deposition designations, you simply stated you would not be responding to the questions in our email re Dr. Buddington and that our remedy was simply to object at trial.

As an initial matter, we remind you that the parties have an obligation to meet and confer in good faith, both pursuant to the parties' scheduling stipulation (Section V), as well as Federal Rule 37(a) and the Standing Orders of the Northern District of Illinois. Per our e-mail below, we need to make sure the parties are on the same page (for example, we are looking at the right documents) to ensure that we have a legally valid basis to file a motion. Additionally, to the extent that you plan to elicit testimony beyond what you represented to the Court, we need to know before we file a motion so that the Judge is not deciding this piece-meal. Obviously, things can continue to evolve at trial, but If Plaintiff has a basis for the information it provided to the Court or additional proposed testimony, now, that should be identified for the Court's reference.

If you continue to refuse to provide a substantive response, we will note your refusal and ask that any testimony beyond the quote below be excluded. We also reserve all rights regarding the specific documents we requested below.

Again, we hope you will reconsider.

Thanks,

Sharon

Sharon Desh

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From: Andy Childers <achilders@levinlaw.com>

Sent: Monday, April 21, 2025 4:56 PM

To: Desh, Sharon <SDesh@winston.com>; Timothy Becker <tbecker@johnsonbecker.com>; Jose Rojas <rojas@ctlawyer.net>; Sara Papantonio <spapantonio@levinlaw.com>

Cc: James F. Hurst - Kirkland & Ellis LLP (james.hurst@kirkland.com) <james.hurst@kirkland.com>; rebecca.fitzpatrick@kirkland.com; sierra.elizabeth@kirkland.com; Coberly, Linda <LCoberly@winston.com>

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Sharon,

Thank you for speaking with me about Dr. Buddington. As we represented to the Court, and as I reiterated during our discussion, Plaintiff is not seeking to elicit expert opinions from Dr. Buddington at trial.

If you choose to file a motion despite our representation to the Court and the discussion you and I just had, we will respond as appropriate.

Sincerely,
Andy Childers

C. Andrew Childers
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From: Desh, Sharon <SDesh@winston.com>

Sent: Monday, April 21, 2025 3:49 PM

To: Timothy Becker <tbecker@johnsonbecker.com>; Andy Childers <achilders@levinlaw.com>; Jose Rojas <rojas@ctlawyer.net>; Sara Papantonio <spapantonio@levinlaw.com>

Cc: James F. Hurst - Kirkland & Ellis LLP (james.hurst@kirkland.com) <james.hurst@kirkland.com>; rebecca.fitzpatrick@kirkland.com; sierra.elizabeth@kirkland.com; Coberly, Linda <LCoberly@winston.com>

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CAUTION: This email message is **EXTERNAL**.

Counsel,

As discussed at the pretrial conference, we plan to file a motion to exclude Dr. Randall Buddington. Plaintiff's counsel informed the Court that Plaintiff is only seeking to have Dr. Buddington testify to the fact that "[he] had a contract with [Abbott], this is what they asked [him] to do, [he] did the work, here were the results, [he] published this article five years later after expiration of [his] NDA." 4/17/25 Pretrial Hearing Tr. at 132:21-24.

Please confirm the following by **close of business tomorrow, April 22:**

1. The specific contract you are referring to, by bates number and exhibit number;
2. All documents, by bates number and exhibit number, setting forth the "results" you plan to elicit;

3. The specific article you are referring to, by bates number and exhibit number;
4. That the quoted language above is the only testimony that you will seek to elicit from Dr. Buddington.

Thanks,

Sharon

Sharon Desh

Partner

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